

§ 536.302

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in a lower-graded position when the employee does not meet the eligibility requirements for grade retention under subpart B of this part;

(3) A management action that places an employee in a non-special rate position or in a lower-paid special rate position from a special rate position;

(4) A management action that places an employee under a different pay schedule;

(5) A management action that places an employee in a formal employee development program generally utilized Governmentwide, such as upward mobility, apprenticeship, and career intern programs; or

(6) A reduction or elimination of scheduled rates, special schedules, or special rate schedules, excluding—

(i) A statutory reduction in scheduled rates of pay under the General Schedule, including a reduction authorized under 5 U.S.C. 5303(b); or

(ii) A statutory reduction in a prevailing rate schedule established under 5 U.S.C. chapter 53, subchapter IV, and 5 CFR part 532.

(b) An agency must establish a retained rate when application of a promotion increase rule for General Schedule or prevailing rate employees results in a payable rate of basic pay that exceeds the maximum rate of the highest applicable rate range for the employee's new position. (See the promotion increase rules in 5 U.S.C. 5334(b) and 5 CFR 531.214 for GS employees and in 5 CFR 532.407 for prevailing rate employees—in particular, the special provisions in these promotion increase rules on establishing a retained rate equal to an employee's existing rate when that existing rate exceeds the applicable range maximum.) Once established, such a retained rate is governed by the provisions of this subpart.

(c) If an employee's official worksite changes in conjunction with an action that may entitle the employee to pay retention under paragraph (a) of this section, the agency must apply the geographic conversion rule in § 536.303(a) before determining whether an employee's rate of basic pay otherwise would be reduced.

(d) An employee is considered “placed” under paragraph (a)(2), (3), (4),

and (5) of this section only when the employee remains in a position in the same agency. Optional pay retention under § 536.302 may apply when an employee transfers to a different agency as a result of a reduction in force or reclassification action or is selected by a different agency to fill a position under a formal employee development program, if all other qualifying conditions are met.

(e) Eligibility for pay retention under this section ceases under the conditions specified in § 536.308.

[70 FR 31310, May 31, 2005, as amended at 73 FR 66155, Nov. 7, 2008]

§ 536.302 Optional pay retention.

(a) Subject to the requirements in § 536.102 and this section, an authorized agency official may provide pay retention to an employee not entitled to pay retention under § 536.301, but whose payable rate of basic pay otherwise would be reduced (after application of any applicable geographic conversion under § 536.303(a)) as the result of a management action. This includes a management action to move an employee's position, without a break in service of more than 3 days, from a Department of Defense or Coast Guard nonappropriated fund instrumentality (as defined in 5 U.S.C. 2105(c)) to a position under a covered pay system in the same agency.

(b) If an employee's official worksite changes in conjunction with an action that may entitle the employee to pay retention under paragraph (a) of this section, the agency must apply the geographic conversion rule in § 536.303(a) before determining whether an employee's rate of basic pay otherwise would be reduced.

(c) Eligibility for pay retention under this section ceases under the conditions specified in § 536.308.

§ 536.303 Geographic conversion.

(a) *Geographic conversion at time of action that may provide initial entitlement to pay retention.* If, in conjunction with a pay action that may entitle the employee to pay retention under §§ 536.301 or 536.302, an employee's official worksite is changed to a new location where different pay schedules apply, the agency must convert the employee's rate(s)